

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



August 27, 2004

ALL COUNTY LETTER NO. 04-33

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CalWORKs PROGRAM SPECIALISTS  
ALL WELFARE-TO-WORK COORDINATORS  
ALL CAL-LEARN COORDINATORS  
ALL CAL-LEARN CASE MANAGEMENT AGENCIES  
ALL CONSORTIUM PROJECT MANAGERS

**REASON FOR THIS TRANSMITTAL**

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☒ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: FRY V. SAENZ LAWSUIT

REFERENCE: All County Letter (ACL) 01-77; All County Information Notice (ACIN) 1-71-02

The purpose of this ACL is to provide county welfare departments (CWDs) with initial implementation instructions as required by the judgment and writ issued on July 7, 2004, in the Fry v. Saenz lawsuit. This case challenged state law (Welfare and Institution Code Section 11253) prohibiting the granting of California Work Opportunity and Responsibility to Kids (CalWORKs) cash aid to children who have reached 18 years of age, unless the child can reasonably be expected to graduate before age 19. The lawsuit claimed that this provision violates the Americans with Disabilities Act because it discriminates against recipients who would not graduate before age 19 due to a disability. The court ordered the California Department of Social Services (CDSS) to implement by ACL and regulation, a reasonable modification of the law to provide CalWORKs cash aid to otherwise eligible 18-year-olds who are attending school full-time and are not expected to graduate before age 19 due to their disability.

**OVERVIEW**

The CDSS must modify the rule [Manual of Policy and Procedures (MPP) 42-101.2] for determining CalWORKs cash aid and eligibility for otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not expected to graduate by age 19 from high school or vocational school because of their disability. This ACL implements the first phase of this modification and instructs counties to immediately cease denying, discontinuing or reducing the cash aid for all otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not expected to graduate by age 19. CWDs are instructed to flag cases impacted by Fry v. Saenz for future review until the teen turns 19, graduates or the instructions defining "disability" are issued by the CDSS.

The CDSS will issue a second ACL on or before November 12, 2004, to define "disability." It will provide the process and standards for identifying otherwise eligible 18-year-olds who are not reasonably expected to complete high school or vocational school before they turn 19 because of their disability. The instructions in this ACL remain in effect until further instructions are issued.

### **ACTIVE CASES**

CWDs are instructed to immediately cease discontinuing CalWORKs cash aid for all otherwise eligible 18-year-olds (and their parent/caretaker relatives) who are attending school full-time and are not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason (MPP 42-101.2). CalWORKs cash aid for these otherwise eligible 18-year-olds and their parent/caretaker relatives will continue until the teen turns 19; the teen graduates from high school or vocational school; or the instructions defining “disability” are issued by the CDSS and make the 18-year-old ineligible, whichever comes first.

### **DISCONTINUANCES AND GRANT REDUCTIONS**

CWDs are instructed to rescind the discontinuance of aid or grant reduction for an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, that was based solely upon current age requirement regulations and occurred between July 7, 2004, (the date of judgment entry) and the date the CWD implements this change. CWDs shall use Notice of Action (NOA) Message MT 42-101.2A to rescind the discontinuance or NOA Message MT 42-101.2B to rescind the grant reduction as soon as administratively feasible, but no later than 60 days from the date of this ACL. (NOA messages are attached to this ACL.)

### **APPLICANT CASES**

CWDs are instructed to immediately cease denials of CalWORKs cash aid for an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, that were based solely upon current age requirement regulations. Denials occurring retroactive to July 7, 2004 shall be rescinded using the NOA Message MT 42-101.2C as soon as administratively feasible, but no later than 60 days from the date of this ACL. The appropriate approval NOA shall be sent at the same time as the Rescind Denial NOA message.

### **RETROACTIVE PAYMENTS**

CWDs are instructed to issue retroactive payments back to July 7, 2004, for any case with an otherwise eligible 18-year-old (and their parent/caretaker relative) who is attending school full-time and is not reasonably expected to graduate from high school or vocational school by age 19, regardless of the reason, if cash aid were lost since July 7, 2004, solely because of current age requirement regulations. These retroactive payments must be issued in accordance with MPP Section 44-340, but no later than 60 days from the date of this ACL per the judgment and writ.

### **PREGNANT AND PARENTING TEENS**

Pregnant or parenting teens who are 18 or are approaching their 18<sup>th</sup> birthday and are not expected to graduate from high school or vocational school by age 19, continue to have the option of establishing his or her own Assistance Unit. These teens must continue to be informed of their possible continuing eligibility options. See ACL 01-77 dated November 7, 2001, and ACIN I-71-02 dated September 23, 2002.

### **WELFARE-TO-WORK (WTW) REQUIREMENTS**

For cases in which the discontinuance of aid is rescinded, nonexempt parents or caretaker relatives must comply with CalWORKs WTW requirements when cash aid is restored.

### **OVERPAYMENTS**

Overpayments will not be assessed against any 18-year-old and their parent/caretaker relatives who received cash aid based on the instructions in this ACL if it's determined that the individual does not meet the disability criteria established by the CDSS.

### **CAMERA READY COPIES AND TRANSLATIONS**

If your office has internet access, you may obtain copies of the English Notice of Actions (NOAs) from the CDSS web page at: [www.dss.cahwnet.gov/cdssweb/On-lineFor\\_271.htm](http://www.dss.cahwnet.gov/cdssweb/On-lineFor_271.htm). For questions on the English NOAs, please call Forms Management Unit at (916) 657-1907.

For copies of NOAs in other languages, including Spanish NOAs, you may go to the CDSS web page at: [www.dss.cahwnet.gov/cdssweb/formsandPU\\_274.htm](http://www.dss.cahwnet.gov/cdssweb/formsandPU_274.htm). Translated materials are posted on an ongoing basis as soon as they are completed. For questions on translated materials, please contact Language Services at (916) 445-6778.

If you have any questions about this letter or the court order, you may contact Charlotte Doisy of the CalWORKs Eligibility Bureau at 916-657-3356 or at [charlotte.doisy@dss.ca.gov](mailto:charlotte.doisy@dss.ca.gov). For questions regarding WTW requirements, please contact Milt Yee of the Employment Bureau at 916-657-3399 or at [milton.yee@dss.ca.gov](mailto:milton.yee@dss.ca.gov).

Sincerely,

***Original signed by:***

BRUCE WAGSTAFF  
Deputy Director  
Welfare to Work Division

Attachments

c: CWDA  
CSAC

Noa Msg Doc No.: MT 42-101.2A Page 1 of 2  
Action : Rescind Discontinuance  
Issue: 18-Year-Olds  
Title: Fry v. Saenz Lawsuit

Use Form No. : NA 290, attach NA 1239  
Original Date : 08/04 New  
Revision Date :

You were told that your cash aid has been stopped. This action has been changed until we can review your case and see if new rules will apply to you.

A court decision called Fry v. Saenz has changed the rules for some 18-year-olds with disabilities. You and your teen may continue to get cash aid as long as your 18-year-old attends school full-time. Your cash aid may stop when your 18-year-old:

- drops out of school; or
- graduates; or
- turns 19; or
- we find out under the new rules that you and your teen cannot get cash aid, whichever comes first.

INSTRUCTIONS: Use to rescind the discontinuance of cash aid for cases impacted by Fry v. Saenz. Attach NA 1239 as continuation page.

This message is new.

State of California  
Department of Social Services

Noa Msg Doc No.: MT 42-101.2B Page 1 of 2  
Action : Change  
Issue: 18-Year-Olds  
Title: Fry v. Saenz Lawsuit

Auto ID No.:  
Source :  
Issued by : ACL 04-33  
Reg Cite : Reference ACL 04-33 until regs are finalized

Use Form No. : NA 290, attach NA 1239  
Original Date : 08/04 New  
Revision Date :

MESSAGE:

As of \_\_\_\_\_, the County is changing your cash aid from \$\_\_\_\_\_ to \$\_\_\_\_\_.

Here's why:

You were told that your cash aid has been lowered. This action has been changed until we can review your case and see if new rules will apply to you.

A court decision called Fry v. Saenz has changed the rules for some 18-year-olds with disabilities. You and your teen may continue to get cash aid at this amount as long as your 18-year-old attends school full-time. Your cash aid may change when your 18-year-old:

- drops out of school; or
- graduates; or
- turns 19; or
- we find out under the new rules that your teen cannot get cash aid, whichever comes first.

Your new cash aid amount is figured on the next page.

INSTRUCTIONS: Use to rescind the reduction in cash aid for cases impacted by Fry v. Saenz. Attach NA 1239 as continuation page.

This message is new.

State of California  
Department of Social Services

Noa Msg Doc No.: MT 42-101.2C Page 1 of 1  
Action : Rescind Denial  
Issue: 18-Year-Olds  
Title: Fry v. Saenz Lawsuit

Auto ID No.:  
Source :  
Issued by : ACL 04-33  
Reg Cite : Reference ACL 04-33 until regs are finalized

Use Form No. : NA 290  
Original Date : 08/04 New  
Revision Date :

MESSAGE:

You were told that your cash aid has been denied. This action has been changed. You may get cash aid until we can review your case and see if new rules will apply to you.

Here's why:

A court decision called Fry v. Saenz has changed the rules for some 18-year-olds with disabilities. You and your teen may continue to get cash aid as long as your 18-year-old attends school full-time. Your cash aid may stop when your 18-year-old:

- drops out of school; or
- graduates; or
- turns 19; or
- we find out under the new rules that you and your teen cannot get cash aid, whichever comes first.

You will receive another notice about your cash aid amount.

INSTRUCTIONS: Use to rescind the denial of cash aid for cases impacted by Fry v. Saenz.

This message is new.

# NOTICE OF ACTION

## Continued

COUNTY OF \_\_\_\_\_

STATE OF CALIFORNIA  
HEALTH AND HUMAN SERVICES AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

Notice Date : \_\_\_\_\_  
Case Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Worker Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Telephone : \_\_\_\_\_  
Address : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You reported the following income for the quarter.

Month \_\_\_\_\_   
Month \_\_\_\_\_   
Month \_\_\_\_\_

**Monthly Cash Aid Amount for the Period** \_\_\_\_\_ **through** \_\_\_\_\_

### Section A. Countable Income

Total Self-Employment Income ..... \$ \_\_\_\_\_  
Self-Employment Expenses:  
    a. 40% Standard ..... - \_\_\_\_\_  
    OR  
    b. Actual ..... - \_\_\_\_\_  
Net Earnings from Self-Employment ..... = \_\_\_\_\_

Total Disability-Based Unearned Income  
(Assistance Unit + Non-Assistance Unit Members) ..... \$ \_\_\_\_\_  
\$225 Disregard ..... - \_\_\_\_\_  
Nonexempt Unearned Disability-Based Income ..... = \_\_\_\_\_  
    OR  
Unused Amount of \$225 Disregard ..... = \_\_\_\_\_

Total Earned Income ..... \$ \_\_\_\_\_  
Net Earnings from Self-Employment (from above) ..... + \_\_\_\_\_  
Subtotal ..... = \_\_\_\_\_  
Unused Amount of \$225 Disregard (from above) ..... - \_\_\_\_\_  
Subtotal ..... = \_\_\_\_\_  
Earned Income Disregard 50% ..... - \_\_\_\_\_  
Subtotal ..... = \_\_\_\_\_  
Nonexempt Unearned Disability-Based Income  
(from above) ..... + \_\_\_\_\_  
Other Nonexempt Income (Assistance Unit + Non-  
Assistance Unit Members) ..... + \_\_\_\_\_  
..... + \_\_\_\_\_

**Net Countable Income** ..... = \_\_\_\_\_

### Section B. Your Cash Aid

1. Maximum Aid \_\_\_\_\_ Persons  
(Assistance Unit + Non-Assistance Unit Members) .. \$ \_\_\_\_\_  
2. Special Needs (Assistance Unit + Non-Assistant  
Unit Members) ..... + \_\_\_\_\_  
3. Net Countable Income from Section A ..... - \_\_\_\_\_  
4. Subtotal ..... = \_\_\_\_\_  
5. Maximum Aid \_\_\_\_\_ Persons (Assistance Unit only)  
(Excluding MFG, or Penalized Persons) ..... \$   
6. Special Needs (Assistance Unit only) ..... + \_\_\_\_\_  
7. Maximum Aid Subtotal ..... = \_\_\_\_\_  
8. **Full Month Aid Subtotal for the Period**  
(Lowest Amount on Line 4 or 7) ..... =   
9. Line 8 Prorated for Part of Month ..... = \_\_\_\_\_  
10. Adjustments: 25% Child Support Penalty(ies) .... - \_\_\_\_\_  
                    Overpayment ..... - \_\_\_\_\_  
                    Cal-Learn Penalty(ies) ..... - \_\_\_\_\_  
                    Cal-Learn Bonus ..... + \_\_\_\_\_  
11. **Monthly Cash Aid Amount for the Period**  
(Line 8 or 9 Adjusted) ..... = \_\_\_\_\_  
12. Current Cash Aid Amount (If This Amount Is more  
Than #11, Your Cash Aid Will Not Change) ..... = \_\_\_\_\_

# NOTICE OF ACTION

COUNTY OF \_\_\_\_\_

STATE OF CALIFORNIA  
HEALTH AND HUMAN SERVICES AGENCY  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

(ADDRESSEE)

└─

└─

Notice Date : \_\_\_\_\_  
Case Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Worker Name : \_\_\_\_\_  
Number : \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Address : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Questions? Ask your Worker.

└─ **State Hearing:** If you think this action is wrong, you can ask for a hearing. The back of this page tells how. Your benefits may not be changed if you ask for a hearing before this action takes place.

**Medi-Cal:** This notice DOES NOT change or stop Medi-Cal Benefits. **Keep using your plastic Benefits Identification Card(s).** You will get another notice telling you about any changes to your health benefits.

**Food Stamps:** This notice DOES NOT stop or change your food stamp benefits. You will get a separate notice telling you about any changes to your food stamp benefits.

Receiving Medi-Cal and/or food stamps only DOES NOT count against your cash aid time limits.

**Rules:** These rules apply; you may review them at your welfare office: MPP



## YOUR HEARING RIGHTS

**You have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.**

**If you ask for a hearing before an action on Cash Aid, Medi-Cal, Food Stamps, or Child Care takes place:**

- Your Cash Aid or Medi-Cal will stay the same while you wait for a hearing.
- Your Child Care Services may stay the same while you wait for a hearing.
- Your Food Stamps will stay the same until the hearing or the end of your certification period, whichever is earlier.

**If the hearing decision says we are right, you will owe us for any extra Cash Aid, Food Stamps or Child Care Services you got.**

To let us lower or stop your benefits before the hearing, check below:

Yes, lower or stop: ☐ Cash Aid ☐ Food Stamps ☐ Child Care

**While You Wait for a Hearing Decision for:**

### Welfare to Work:

You do not have to take part in the activities.

You may receive child care payments for employment and for activities approved by the county before this notice.

If we told you your other supportive services payments will stop, you will not get any more payments, even if you go to your activity.

If we told you we will pay your other supportive services, they will be paid in the amount and in the way we told you in this notice.

- To get those supportive services, you must go to the activity the county told you to attend.
- If the amount of supportive services the county pays while you wait for a hearing decision is not enough to allow you to participate, you can stop going to the activity.

### Cal-Learn:

- You cannot participate in the Cal-Learn Program if we told you we cannot serve you.
- We will only pay for Cal-Learn supportive services for an approved activity.

## OTHER INFORMATION

**Medi-Cal Managed Care Plan Members:** The action on this notice may stop you from getting services from your managed care health plan. You may wish to contact your health plan membership services if you have questions.

**Child and/or Medical Support:** The local child support agency will help collect support at no cost even if you are not on cash aid. If they now collect support for you, they will keep doing so unless you tell them in writing to stop. They will send you current support money collected but will keep past due money collected that is owed to the county.

**Family Planning:** Your welfare office will give you information when you ask for it.

**Hearing File:** If you ask for a hearing, the State Hearing Division will set up a file. You have the right to see this file before your hearing and to get a copy of the county's written position on your case at least two days before the hearing. The state may give your hearing file to the Welfare Department and the U.S. Departments of Health and Human Services and Agriculture. **(W&I Code Sections 10850 and 10950.)**

## TO ASK FOR A HEARING:

- **Fill out this page.**
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- **Send or take this page to:**

**OR**

- **Call toll free: 1-800-952-5253 or** for hearing or speech impaired who use TDD, **1-800-952-8349.**

**To Get Help:** You can ask about your hearing rights or for a legal aid referral at the toll-free state phone numbers listed above. You may get free legal help at your local legal aid or welfare rights office.

**If you do not want to go to the hearing alone, you can bring a friend or someone with you.**

### HEARING REQUEST

I want a hearing due to an action by the Welfare Department of \_\_\_\_\_ County about my:

☐ Cash Aid ☐ Food Stamps ☐ Medi-Cal

☐ Other (list) \_\_\_\_\_

**Here's Why:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

☐ **If you need more space, check here and add a page.**

☐ I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.)

My language or dialect is: \_\_\_\_\_

NAME OF PERSON WHOSE BENEFITS WERE DENIED, CHANGED OR STOPPED

BIRTH DATE

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

NAME OF PERSON COMPLETING THIS FORM

PHONE NUMBER

☐ **I want the person named below to represent me at this hearing. I give my permission for this person to see my records or go to the hearing for me. (This person can be a friend or relative but cannot interpret for you.)**

NAME

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE